

**REMARKS**

**I. Request for Continuing Examination**

The Applicant herein submits a Request for Continuing Examination under 37 CFR §1.114(c) along with the necessary fee, an amendment to selected claims, and arguments in support of patentability of the claims.

**II. Summary of the Final Office Action dated May 15, 2008**

Claims 1-4, 6-8, and 10-34 are pending in the application.

Claims 21, 24, 26, 28, 30, 32, and 34 have been objected to because of alleged informalities.

Claims 20-26 have been rejected under 35 U.S.C. § 112, first paragraph.

Claims 20-26 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Claims 1-4, 6, 10-14, and 16 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application No. 2003/0161325 to Kekki.

Claims 7 and 8 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kekki, in view of U.S. Patent Application No. 2005/0210154 to Verma *et al.* ("Verma").

Claims 20-22 and 31-34 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,374,112 to Widegren *et al.* ("Widegren"), in view of Kekki.

Claims 23-30 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Application No. 2002/0082020 to Lee *et al.* (“Lee”), in view of U.S. Patent No. 6,889,050 to Willars *et al.* (“Willars”).

With respect to dependent claims 15 and 17-19, the Examiner previously indicated that these claims would be allowed if rewritten in independent form (Non-Final Office Action of July 17, 2007). Accordingly, although the Examiner does not address these claims in the Office Action, Applicant believes that claims 15 and 17-19 would still be allowed in rewritten in independent form.

### **III. Claim Objections**

Claims 21, 24, 26, 28, 30, 32 and 34 have been objected to because of alleged informalities. In particular, the Examiner notes that claims 21, 24, 28, and 32 recite “Radio link set-up request”, and suggests that the quotation marks surrounding Radio link set-up request be removed (Office Action at page 2). Claims 26, 30 and 34 are objected to as being dependent on an objected base claim (Office Action at page 2).

By this Amendment, Applicant amends claims 21, 24, 28, and 32. In view of these self-explanatory amendments, Applicant respectfully requests the Examiner to withdraw this Objection.

#### **IV. Claim Rejections Under 35 U.S.C. § 112**

**Claims 20-26** have been rejected under 35 U.S.C. § 112, first paragraph, as being single means claims (the network element being the single means). In particular, the Examiner alleges that the breadth of the claims is not supported by the specification (Office Action at page 2).

**Claims 20-26** have been further rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner notes recitations which allegedly have insufficient antecedent basis (Office Action at page 2).

By this Amendment, Applicant amends claims 20 and 23 to describe the claimed subject matter with more particularity. In view of these self-explanatory amendments, Applicant respectfully requests the Examiner to withdraw this Rejection.

#### **V. Rejections Under 35 U.S.C. § 102(e)**

Claims 1-4, 6, 10-14 and 16 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Kekki. Applicant respectfully submits the following arguments in traversal of the Examiner's rejection.

With respect to **claim 1**, Applicant submits that Kekki does not disclose or suggest, at least: "a second network element uses said at least one parameter for transport quality of service management for uplink transmission", as recited in claim 1. In the Amendment dated January 17, 2008, Applicant submitted that Kekki pertains to management in only the downlink direction,

and therefore, does not disclose or suggest management in the uplink direction (Amendment dated January 17, 2008, at page 14).

In response, in the Final Office Action, the Examiner merely cites Kekki at ¶ 45, ll. 1-11 as allegedly disclosing the above-quoted elements. As noted in the Amendment of January 17, 2007:

Kekki teaches to a transportation of information between nodes. Allowed transportation delays are defined for the first transport entities. Kekki teaches assigning an indicator for a transport entity to be transported from a first node to the a second node based on information of a transport class. Kekki teaches inserting information in the transport entity received at the second node into the transport entity of the second transport entity based on the indicator. See Kekki, paragraph [0012]-[0014]

(Amendment of January 17, 2007 at page 14).

The portions cited by the Examiner simply describe particular details of Kekki's queuing scheme, in which protocol frames are differentiated based on a QoS parameter and placed in corresponding queues, and a scheduler sends the frames in a downlink direction in accordance with their assigned queues (*see* Kekki at ¶¶ [0029]-[0036]). However, Kekki does not disclose or even suggest management of frames in the uplink direction, as recited in claim 1.

At least for this reason, Applicant respectfully submits that Kekki does not disclose or suggest all the elements of claim 1.

With respect to **claims 2-4, 6, 10-14, and 16**, Applicant respectfully submits that these claims are patentable, at least by virtue of their dependency on claim 1, but also for their additionally recited elements.

**VI. Cited Art Rejections Under 35 U.S.C. § 103(a) - Kekki and Verma**

Claims 7 and 8 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kekki in view of Verma.

Applicant respectfully submits that **claims 7 and 8** are patentable, at least by virtue of their dependency on claim 1, but also for their additionally recited elements. In particular, Applicant respectfully submits that Verma does not remedy the above-described deficiencies of Kekki with respect to claim 1.

**VII. Cited Art Rejections Under 35 U.S.C. § 103(a) - Widegren and Kekki**

Claims 20-22 and 31-34 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Widegren in view of Kekki. Applicant respectfully submits the following arguments in traversal of the Examiner's rejection.

With respect to **claim 20**, Applicant respectfully submits that Widegren, alone or in combination with Kekki, does not teach or suggest, at least: "data signalling means for signalling to the Node B in accordance with a signalling protocol of a radio network layer ... at least one parameter representing the quality of service for the transport network layer, for uplink transmission", as recited therein.

Widegren relates to radio access and resource allocation in a UMTS system (Abstract). Widegren discloses an embodiment of an UMTS system comprising a non-access logical plane (50) and an access logical plane (52) (col. 7, ll. 41-53). The access plane (52) contains all of the radio access and radio specific functionality, and the non-access plane (5) includes only logical

control connections or logical traffic connections corresponding to each radio access bearer (col. 7, line 41 to col. 8, line 13).

The Examiner alleges that Widegren's management of quality of service in the access plane (52) discloses the above-quoted elements. However, the management of quality of service referred to by the Examiner is not directed to transport network layer, thus, the quality of service parameters therein do not "represent the quality of service for the transport network later", as recited in claim 20. In particular, Applicant notes that Widegren's access plane and non-access plane do not correspond to a radio network layer and a transport layer.

Furthermore, Widegren does not disclose or suggest that "a first network element signals to a second network element, by means of the radio network layer signaling protocol, at least one parameter representative of transport quality of service or of quality of service for the transport network layer", as recited in claim 1. Applicant notes that the transport layer of Widegren is based on ATM. As noted by the Applicant in the specification of the present application, ATM has its own quality of service parameters signalling protocol (*see* specification at page 7, lines 11-33). Accordingly, a person having ordinary skill in the art would not have been motivated to modify Widegren to signal ATM transport quality of service parameters by means of a radio network layer signalling protocol.

At least for these reasons, Applicant respectfully submits that Widegren, alone or in combination with Kekki, does not disclose all the elements of claim 20.

With respect to **claims 21-22**, Applicant respectfully submits that these claims are patentable, at least by virtue of their dependency on claim 20, but also for their additionally recited elements.

With respect to **claim 31**, Applicant respectfully submits that, at least for reasons analogous to those above regarding claim 21, claim 31 is patentable over the cited art of record.

With respect to **claims 32-34**, Applicant respectfully submits that these claims are patentable, at least by virtue of their dependency on claim 31, but also for their additionally recited elements.

#### **VIII. Cited Art Rejections Under 35 U.S.C. § 103(a) - Lee and Willars**

Claims 23-30 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lee in view of Willars. Applicant respectfully submits the following arguments in traversal of the Examiner's rejection.

With respect to **claim 23**, Applicant respectfully submits that Lee, alone or in combination with Willars, does not teach or suggest, at least: "signalling to a radio network controller DRNC by means of a signalling protocol of a radio network layer ... at least one parameter representing the quality of service for the transport network layer", as recited therein.

The Examiner alleges that the combination of Lee and Willars discloses the above-quoted elements (Office Action at page 7). However, the portions cited by the Examiner merely disclose operations related to the radio network layer. Though the cited art arguably discloses handling of quality of service parameters, it is still within the context of a radio network layer,

and does not teach or suggest signaling through a radio network layer protocol “at least one parameter representing the quality of service for the transport network layer”, as recited in claim 23.

At least for this reason, Applicant respectfully submits that Lee, alone or in combination with Willars, does not disclose all the elements of claim 23.

With respect to **claims 24-26**, Applicant respectfully submits that these claims are patentable, at least by virtue of their dependency on claim 23, but also for their additionally recited elements.

With respect to **claim 27**, Applicant respectfully submits that, at least for reasons analogous to those above regarding claim 23, claim 27 is patentable over the cited art of record.

With respect to **claims 28-30**, Applicant respectfully submits that these claims are patentable, at least by virtue of their dependency on claim 27, but also for their additionally recited elements.

#### **IX. Editorial Amendments**

By this Amendment, Applicant editorially amends claims 21, 22, and 24-26 for reasons of clarity and consistency.

#### **X. Allowable Subject Matter**

Claims 15 and 17-19 contain allowable matter and would be allowed if rewritten in independent form. Applicant respectfully requests the Examiner to hold in abeyance any such



rewriting of the claims until the Examiner has had a chance to reconsider and withdraw the rejection of the remaining claims.

**XI. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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**23373**

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Date: December 11, 2008